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SENSITIVE

STATE FOR AC/CB, NP/CBM, VC/CCB, L/ACV, IO/S

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TAGS: [PARM](#) [PREL](#) [LY](#) [CWC](#)

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): EC-37
DISCUSSIONS OF TECHNICAL CHANGE TO PERMIT CONVERSION OF
LIBYA/RABTA CW PRODUCTION FACILITY

REF: A. STATE 136811 (NOTAL)

[1](#)B. STATE 132224 (NOTAL)

This is CWC-84-04.

[1](#)1. (SBU) Summary: During EC-37, the U.S., UK, Italian and Libyan dels cooperated closely in actively educating and seeking support from other EC members regarding the proposed technical change that would permit Libya to seek conversion of chemical weapons production facilities (CWPF). Without exception delegations contacted expressed support for Libya's objective of converting Rabta and many agreed that a technical change appeared the most appropriate way to address this issue, but most said that further consideration would be needed in capitals. France emerged as the primary obstacle to achieving consensus on the joint proposal, actively shopping alternative text to other dels. Though the French proposal is unlikely to gain any real support, France's actions will likely feed into reservations held by some dels about the joint approach, especially among WEOG members, complicating efforts to achieve consensus. The U.S., UK, Italian and Libyan dels agreed, in principle, to move ahead with submitting the formal proposal to the OPCW in mid-July, and discussed modifying the original text to include a clear time limit for completion of conversions to address a common concern among EC members. End summary.

[1](#)2. (SBU) During the Thirty-Seventh Session of the OPCW Executive Council (EC) meeting (June 29-July 2), the U.S., UK, Italian and Libyan dels cooperated closely in actively educating and seeking support from other EC members regarding the proposed technical change to the CWC Verification Annex that would permit Libya (and future states) to seek conversion of chemical weapons production facilities (CWPF). The four delegations were able to meet, individually or in small groups, with a large proportion of the EC members. Most dels expressed support for Libyan conversion of the Rabta facility and viewed pursuing a technical change as a reasonable approach, but indicated that this issue would need further consideration in capitals, particularly on the legal aspects of the proposed approach.

[1](#)3. (SBU) The Libyan delegation, backed by members of the Africa Group, took an active public role in seeking support for the proposal, especially among developing countries, to head-off concerns that this would be perceived as essentially a U.S./WEOG initiative. The Libyan Ambassador, delivered a strong statement on the floor of the EC, seeking support for the proposal, followed by positive interventions from Algeria, Morocco, Tunisia, and Sudan.

[1](#)4. (SBU) France has emerged in a very prominent manner as the main obstacle to achieving consensus in the OPCW on the proposed technical change. The French support pursuing a technical change to permit Libyan conversion, but strongly object to the proposed text. France rejects the involvement of the EC and CSP in taking decisions on a "case-by-case" basis regarding the deadlines for submitting requests and completing conversion, arguing that this would lead to "unequal treatment." Members of the French delegation were unable to engage in a reasoned discussion of the specific elements of the proposed text.

[1](#)5. (SBU) The French del rejected as insufficient an offer to establish a clear time limit for completion of conversion and proceeded to actively shop an alternative proposal whereby the deadline for completing conversion would be extended from 2003 to 2009. When confronted by the U.S. and others with the clear deficiencies of its proposal (e.g., would require future technical change, treat future States Parties unequally, and, as written, also extend the deadline for Russia), members of the French del indicated revisions could be made, but offered no alternative text by week's end. The French Ambassador made a rare appearance on the last day of the EC to make a statement on the floor that France supported pursuing a technical change but stressed that the proposed approach did not meet the requirement to be "predictable and non-discriminatory." (Comment: This statement was likely in response to the well-received Libyan statement the previous

day, along with the Tunisian del confronting the French del about its opposition.) While the French proposal is certain to garner little support, its efforts to lobby other dels will complicate efforts to achieve consensus on this issue, especially among WEOG members, many of who either share some concerns about a "case-by-case" approach, or would be reluctant to isolate France. France will apparently seek to raise this issue in the EU, but the UK and the Netherlands, which has just taken over the EU Presidency, will seek to block France in this regard.

16. (SBU) See below for summary of reactions from selected delegations:

--Other WEOG: While WEOG reactions were generally positive regarding pursuing a technical change to permit Libyan conversion, several dels expressed uneasiness with the specific proposal. The German del, upon instruction from Berlin, continued to question the need for a technical change, raising the option of an EC decision that interpreted away the problem. Germany also voiced concern about the absence of a firm time limit for completing conversion, and indicated that Berlin would need to see the details of the Libyan conversion request in order to address long-standing sensitivities related to past German CW-related transfers to Libya before taking a decision. After extensive discussions, the German del appeared to take on board arguments in favor of pursuing a technical change, as well as the proposed text, and indicated they would be willing to talk to the French. The Spanish rep, unconvinced by arguments related to security concerns and ensuring accountability, expressed concern with a "case-by-case" approach, and instead favored a simpler change with clear, predictable parameters (e.g., time limits). Echoing the Spanish, the Swiss and Canadian dels also favored a simpler approach that established a firm time limit for completing conversion, though the latter appeared to recognize the need to ensure new States Parties convert in a timely manner. The Dutch Ambassador expressed strong support for our proposed approach and a clear understanding of the underlying reasons for it.

--ASIA: A Japanese official from the MFA expressed political support for permitting Libyan conversion, but indicated officials in Tokyo would need to evaluate the legal basis for pursuing the proposed technical change. South Korea supported the proposal, in principle, and that, with North Korea clearly in mind, the proposed technical change appeared to be the best alternative. Members of the Indian del from capital expressed general support for the concept but indicated that they would need to examine the legal question, and also wanted to see further details about the proposed conversion. Malaysia, which currently holds chairmanship of the NAM, offered public support for permitting Libyan conversion, but privately expressed concern about the proposal being perceived as a U.S./WEOG-led initiative, and encouraged the Libyans to take a more prominent role in seeking support among developing countries. The Iranian del informed the UK that it supported, in principle, Libyan conversion, but would have to defer to Tehran, particularly on the legality of the proposal.

--AFRICA: While Tunisia, Sudan, Morocco and Algeria offered firm support, the South African del initially appeared to waiver on the issue of co-sponsoring the proposal, expressing the desire for more participation from other regions. However, the South African Ambassador, Priscilla Jana, subsequently clarified their position and unambiguously confirmed their support, only expressing a desire for some Asian or Latin American co-sponsorship. (Note: Italy and the UK indicated that Rabat had agreed to co-sponsor the proposal, to go along with Tunis and Pretoria.)

--EASTERN EUROPE: The Russian del expressed cautious support for permitting Libya to convert Rabta, noting its significant experience in this area, but indicated that Moscow would have to closely evaluate the proposal, particularly from a legal standpoint. The Czech, Slovakian, and Ukrainian dels all indicated they did not see any problems with the proposal, but would have to await instructions from capitals. (Comment: The UK indicated that Kiev had offered to co-sponsor the proposal.) Poland, which is not currently an EC member, offered its full support.

--GRULAC: According to the UK, Peru, which currently chairs the EC, has offered to co-sponsor the proposal and seek support among other GRULAC members. There are also unconfirmed reports that Panama has also offered to be a co-sponsor. In a strange turn, the UK del also indicated that the Argentine Ambassador may have concerns with the proposed text and may propose alternative text. The UK recommended the U.S. approach Buenos Aires, as appropriate, to cut-off opposition.

17. (SBU) Next steps: The U.S., UK, Italian, and Libyan dels agreed, in principle to take the following steps in the coming weeks:

-- Propose to capitals that the text for the technical change be modified to include a clear time limit for the completion of conversion, in order to address concerns raised by many delegations and further isolate France;

-- Continue to approach other EC members seeking support, with Libya taking the lead among developing countries, and including seeking a select number of additional co-sponsors from the Asia, East Europe and GRULAC groups.

-- Demarche Paris regarding the latest version of the proposed technical change, encouraging them to support this approach, but in any case indicate readiness to further discuss the issue; and

-- Finalize and submit the proposal package to the OPCW Director-General the week of July 12, consisting of (1) a transmission letter from the Libyan del, signed by all co-sponsors, (2) the text of the proposed technical change, and (3) supporting information (drafted by U.S.), to be cleared in the four capitals and offered by Libya.

18. (U) Javits sends.
SOBEL